

Notice of Allowability

Application No.

09/891,615

Applicant(s)

RUBIN ET AL.

Examiner

Michele Flood

Art Unit

1654

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to May 13, 2005.
2. ☒ The allowed claim(s) is/are 1-10, 12, 25, 29, 30, 32 and 34-37.
3. ☐ The drawings filed on _____ are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).
- * Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying Indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date 3/02; 8/04; 10/04
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413),
Paper No./Mail Date _____
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____



5.0.0

DETAILED ACTION

Acknowledgment is made of the receipt and entry of the amendment filed after final on May 13, 2005.

Allowable Subject Matter

Claims 1-10, 12, 25, 29, 30, 32 and 34-37 are allowed.

EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Gregory T. Lowen on June 30, 2005.

The application has been amended as follows:

IN THE CLAIMS:

In Claim 3, line 2, delete "obtainable"; and, insert - - obtained - -.

In Claim 3, line 3, delete "extract a fraction"; and, insert - - isolate a solution of an extract - -.

In Claim 3, line 3, delete "extraction".

In Column 3, line 3, before "from", insert - - of the extract - -.

In Claim 3, line 4, delete the first "said".

In Column 3, line 4, delete "extraction".

In Claim 4, line 2, delete "active agent in the extracted material"; and, insert - - anti-diabetic activity of said extract - -.

In Claim 5, line 2, after "solvent", insert - - treatment - -.

In Claim 6, line 2, "active agent in the extracted material"; and, insert - - anti-diabetic activity of said extract - -.

In Claim 8, line 4, delete "the active agent"; and, insert - - anti-diabetic activity - -.

In Claim 9, line 2, delete "obtainable"; and, insert - - obtained - -.

In Claim 9, line 2, delete "the".

In Claim 32, line 2, after "dosage of", insert - - the following ingredients - -.

The following is an examiner's statement of reasons for allowance:

The closest prior art to the claimed invention is taught by Van Heerden et al. in U. S. Patent 6,376,657 B1 (Document No. 21 cited in PTO Form 1449, 8/19/2004), wherein Van Heerden teaches a pharmaceutical composition which contains an extract obtained from a plant of the genus *Trichocaulon* or of the genus *Hoodia* having a the formula (1) of the same chemical compound, instantly disclosed by Applicant herein, and wherein the pharmaceutical composition is used in a method of diabetes. However, the Examiner notes that the prior art does not teach the disclosed pharmaceutical composition for the treatment of diabetes, as disclosed herein by Applicant.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michele Flood whose telephone number is 571-272-0964. The examiner can normally be reached on 7:00 am - 3:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bruce Campell can be reached on 571-272-0974. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


MICHELE FLOOD
PRIMARY EXAMINER

Michele Flood
Examiner
Art Unit 1654

MCF
July 6, 2005